



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information**, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: February 5, 2015

Date of Meeting: February 12, 2015

Submitted by: Town Council Chair Nancy Harrington
and Vice Chair Tom Mahon

Department:

Time Required: 20 minutes

Speakers:

Background Info.

Supplied:

Yes: ☒

No: ☐

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment: ☐

Recognition/Resignation/

Retirement: ☐

Public Hearing: ☐

Old Business: ☒

New Business: ☐

Consent Agenda: ☐

Nonpublic: ☐

Other: ☐

TITLE OF ITEM

Kinder Morgan - Northeast Energy Direct (NED) Proposed Pipeline Project

DESCRIPTION OF ITEM

Information Reports and Updates & Action Items

REFERENCE (IF KNOWN)

RSA:

Warrant Article:

Charter Article:

Town Meeting:

Other:

N/A

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector: ☐

Grant Requirements: ☐

Easel: ☐

Joint Meeting: ☐

Special Seating: ☐

Other: ☐

Laptop: ☐

None: ☐

CONTACT INFORMATION

Name:

Nancy Harrington

Address

6 Baboosic Lake Road

Phone Number

Email Address

nharrington@merrimacknh.gov

APPROVAL

Town Manager:

Yes ☐

No: ☐

Chair/Vice Chair:

Yes ☒

No: ☐

Hold for Meeting Date: _____



KM Pipeline Town Parcel Impact



This map was prepared by the Kalamazoo County Planning Department. It is not a legal document. It is for informational purposes only. It does not constitute a guarantee of accuracy or completeness. It is subject to change without notice. It is not to be used for any other purpose than the one for which it was prepared.

Tennessee Gas Pipeline Company, L.L.C. - Northeast Energy Direct

SURVEY PERMISSION

State of New Hampshire
County of Hillsborough
Town of Merrimack

LL# New Hampshire WD 408.00
Total # of tracts 1
Map/Block/Lot 3B-164

I/We (Grantor) do hereby grant permission to Tennessee Gas Pipeline Company L.L.C., a Delaware limited liability company, (Tennessee) its successors and assigns, affiliates, employees and contractors to enter upon my/our land for the purpose of performing civil and environmental surveys and studies that include, but are not limited to, project routing, characterization of land as to property ownership, topographic features, descriptions, cultural resources, wetland delineation and archeology.

Tennessee, its agents, and assigns agree to conduct themselves in a professional and workmanlike manner. In the event that the above mentioned survey activities cause damages to property, crops, and fences Tennessee Gas Pipeline LLC agrees to pay for said damages.

Tennessee, (hereinafter Indemnitor), does hereby AGREE to protect, defend, indemnify and hold Grantor, their agents, servants and employees, (hereinafter Indemnitees), harmless from and against any and all actions, demands, claims, liabilities, expenses, liens, or costs resulting from Indemnitor or its successors or assigns, affiliates, employees, agents or contractors activities' associated with the proposed survey work on property owned by the Indemnitees, unless such action, claim or cost is caused by the sole negligence, gross negligence or willful misconduct of the Indemnitees, its officials or employees.

Date: _____

Grantor(s): _____

Town Of Merrimack
6 Baboosic Lake Road
Merrimack, NH 03054
Phone# (603) 424-2331

Patty Quinn
Percheron Field Services, LLC
Land Agent for Tennessee Gas Pipeline
Company, LLC

Tenant: _____
Name _____
Address _____
Town, City Zip _____
Phone # _____

Interest: _____
(i.e. agricultural lease, house rental, etc.)

Existing Structures:

<input type="checkbox"/> Water Well	<input type="checkbox"/> Septic System/Leach Field	<input type="checkbox"/> Foundation	<input type="checkbox"/> Utility Poles
<input type="checkbox"/> Swimming Pool	<input type="checkbox"/> Drainage Tiles	<input type="checkbox"/> Property Pins	<input type="checkbox"/> Ponds
<input type="checkbox"/> Buildings	<input type="checkbox"/> Buried Lines/Pipes	<input type="checkbox"/> Other:	

Ingress/Egress _____

Notes/Comments _____

OWNER INFORMATION **SALES HISTORY**

MERRIMACK TOWN OF	Date	Book	Page	Type	Price Grantor
	07/19/2002			Q 1	5,250,000 NASTAM ASSOCIATE
6 BABOOSIC LAKE RD	01/07/1999			U 1 99	TAMPOSI,SAMUEL
MERRIMACK, NH 03054					

LISTING HISTORY **NOTES**

08/22/03 AAUL	VACANT,ACCESS FROM AMHERST ROAD// SALE PRICE INCLUDES 35 LOTS// HORSE HILL NATURE PRESERVE
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EXTRA FEATURES VALUATION **MUNICIPAL SOFTWARE BY AVATAR**

Feature Type	Units	Length x Width	Size Adj	Rate	Cond	Market Value	Notes
--------------	-------	----------------	----------	------	------	--------------	-------

MERRIMACK ASSESSING OFFICE

PARCEL TOTAL TAXABLE VALUE			
Year	Building	Features	Land
2013	\$ 0	\$ 0	\$ 784,500
		Parcel Total:	\$ 784,500
2014	\$ 0	\$ 0	\$ 784,500
		Parcel Total:	\$ 784,500
2015	\$ 0	\$ 0	\$ 784,500
		Parcel Total:	\$ 784,500

LAND VALUATION

Zone: RESIDENTIAL	Minimum Acreage: 0.92	Minimum Frontage: 150	Site: NA Driveway: NONE Road: PAVED			
Land Type	Units	Base Rate	NC	Adj	Site	Road
EXEMPT-MUNIC	0.920 ac	130,000	E	100	100	DWay
EXEMPT-MUNIC	562.080 ac	x 5,000	X	25	100	Topography
					95 --	MILD
					100	Cond
					117,000	Ad Valorem
					667,500	SPI
					0	R
					117,000	Tax Value
					667,500	Notes
					ACC	
					784,500	
					784,500	

PARCEL 1

PICTURE		OWNER	TAXABLE DISTRICTS		BUILDING DETAILS
		MERRIMACK TOWN OF 6 BABOOSIC LAKE RD MERRIMACK, NH 03054	District Merrimack Village	Percentage % 100	Model: Roof: Ext: Int: Floor: Heat: Bedrooms: Baths: Extra Kitchens: A/C: Quality: Com. Wall: Stories: Fixtures: Fireplaces: Generators:
		PERMITS			
		Date	Permit ID	Permit Type	Notes
		Base Type:			
BUILDING SUB AREA DETAILS					
2011 BASE YEAR BUILDING VALUATION					
Year Built: % Condition For Age: % Physical: % Functional: % Economic: % Temporary: %					

Tennessee Gas Pipeline Company, L.L.C. - Northeast Energy Direct

SURVEY PERMISSION

State of New Hampshire
County of Hillsborough
Town of Merrimack

LL# New Hampshire WD 416.00
Total # of tracts 1
Map/Block/Lot 3C-73

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Date: _____

Grantor(s): _____

Town Of Merrimack
6 Baboosic Lake Road
Merrimack, NH 03054
Phone# (603) 424-2331

Patty Quinn
Percheron Field Services, LLC
Land Agent for Tennessee Gas Pipeline
Company, LLC

Tenant: _____
Name _____
Address _____
Town, City Zip _____
Phone # _____

Interest: _____
(i.e. agricultural lease, house rental, etc.)

Existing Structures:

<input type="checkbox"/> Water Well	<input type="checkbox"/> Septic System/Leach Field	<input type="checkbox"/> Foundation	<input type="checkbox"/> Utility Poles
<input type="checkbox"/> Swimming Pool	<input type="checkbox"/> Drainage Tiles	<input type="checkbox"/> Property Pins	<input type="checkbox"/> Ponds
<input type="checkbox"/> Buildings	<input type="checkbox"/> Buried Lines/Pipes	<input type="checkbox"/> Other:	

Ingress/Egress _____

Notes/Comments _____

OWNER INFORMATION

SALES HISTORY

PRICE GRANTOR

MERRIMACK TOWN OF	Date	Book	Page	Type	Price	Grantor
	01/04/1998	5892	204	U V 47		HILL, BERT; HEA
6 BABOOSIC LAKE RD	07/28/1997	1996	2083	U 138		HILL, RONALD, L

MERRIMACK, NH 03054

LISTING HISTORY

NOTES

08/26/03 MRUL

GILMORE HILL MEMORIAL FOREST

EXTRA FEATURES VALUATION

MUNICIPAL SOFTWARE BY AVITAR

Feature Type Units Length x Width Size Adj Rate Cond Market Value Notes

MERRIMACK ASSESSING OFFICE

PARCEL TOTAL TAXABLE VALUE

Year	Building	Features	Land
2013	\$ 0	\$ 0	\$ 111,800
		Parcel Total:	\$ 111,800
2014	\$ 0	\$ 0	\$ 111,800
		Parcel Total:	\$ 111,800
2015	\$ 0	\$ 0	\$ 111,800
		Parcel Total:	\$ 111,800

LAND VALUATION

Zone: RESIDENTIAL Minimum Acreage: 0.92 Minimum Frontage: 150 Site: Driveway: NONE Road: GRAVEL

Land Type	Units	Base Rate	NC	Adj	Site	Road	DWay	Topography	Cond	Ad Valorem	SPI	R	Tax Value	Notes
EXEMPT-MUNIC	0.920 ac	130,000	E	100	100	95	100	95 -- MILD	50	58,700	0	N	58,700	
EXEMPT-MUNIC	24.320 ac	x 5,000	X	97				90 -- ROLLING	50	53,100	0	N	53,100	WET
	25.240 ac									111,800			111,800	

Parcel 2

Map: 00003C

Lot: 000073

Sub: 000000

Card: 1 of 1

37 GREENS POND RD

MERRIMACK

Printed: 01/21/2015

<div>PICTURE</div>	<div>OWNER</div> <div>MERRIMACK TOWN OF</div> <div>6 BABOOSIC LAKE RD</div> <div>MERRIMACK, NH 03054</div>	<div>TAXABLE DISTRICTS</div> <table><tr><th>District</th><th>Percentage</th></tr><tr><td>Merrimack Village</td><td>% 100</td></tr></table>		District	Percentage	Merrimack Village	% 100	<div>BUILDING DETAILS</div>		
		District	Percentage							
		Merrimack Village	% 100							
<div>PERMITS</div> <table><tr><th>Date</th><th>Permit ID</th><th>Permit Type</th><th>Notes</th></tr><tr><td colspan="4"></td></tr></table>		Date	Permit ID	Permit Type	Notes					<div>Model:</div> <div>Roof:</div> <div>Ext:</div> <div>Int:</div> <div>Floor:</div> <div>Heat:</div> <div>Bedrooms:</div> <div>A/C:</div> <div>Quality:</div> <div>Com. Wall:</div> <div>Stories:</div> <div>Baths:</div> <div>Extra Kitchens:</div> <div>Fixtures:</div> <div>Fireplaces:</div> <div>Generators:</div> <div>Base Type:</div>
Date	Permit ID	Permit Type	Notes							
<div>BUILDING SUB AREA DETAILS</div>										
<div>2011 BASE YEAR BUILDING VALUATION</div> <div><div>Year Built:</div><div>Condition For Age:</div><div>Physical:</div><div>Functional:</div><div>Economic:</div><div>Temporary:</div></div> <div>%</div> <div>%</div>										

Tennessee Gas Pipeline Company, L.L.C. - Northeast Energy Direct

SURVEY PERMISSION

State of New Hampshire
County of Hillsborough
Town of Merrimack

LL# New Hampshire WD 420.01
Total # of tracts 1
Map/Block/Lot 3C-41

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Date: _____

Grantor(s): _____

Town Of Merrimack
6 Baboosic Lake Road
Merrimack, NH 03054
Phone# (603) 424-2331

Patty Quinn
Percheron Field Services, LLC
Land Agent for Tennessee Gas Pipeline
Company, LLC

Tenant: _____

Name _____
Address _____
Town, City Zip _____
Phone # _____

Interest: _____
(i.e. agricultural lease, house rental, etc.)

Existing Structures:

<input type="checkbox"/> Water Well	<input type="checkbox"/> Septic System/Leach Field	<input type="checkbox"/> Foundation	<input type="checkbox"/> Utility Poles
<input type="checkbox"/> Swimming Pool	<input type="checkbox"/> Drainage Tiles	<input type="checkbox"/> Property Pins	<input type="checkbox"/> Ponds
<input type="checkbox"/> Buildings	<input type="checkbox"/> Buried Lines/Pipes	<input type="checkbox"/> Other:	

Ingress/Egress _____

Notes/Comments _____

OWNER INFORMATION

MERRIMACK TOWN OF

6 BABOOSIC LAKE RD

MERRIMACK, NH 03054

SALES HISTORY

Date	Book	Page	Type	Price	Grantor
05/23/1978	2608	637	U 1 99		DIGITAL
04/01/1900	2559	131	U 1 99		N/A

LISTING HISTORY

08/28/03 MRUL

GROUNDWATER BASIN

NOTES

EXTRA FEATURES VALUATION

Feature Type	Units	Length	Width	Size	Adj	Rate	Cond	Market Value	Notes
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MUNICIPAL SOFTWARE BY AVITAR

MERRIMACK ASSESSING
OFFICE

PARCEL TOTAL TAXABLE VALUE

Year	Building	Features	Land
2013	\$ 0	\$ 0	\$ 65,900
		Parcel Total:	\$ 65,900
2014	\$ 0	\$ 0	\$ 65,900
		Parcel Total:	\$ 65,900
2015	\$ 0	\$ 0	\$ 65,900
		Parcel Total:	\$ 65,900

LAND VALUATION

Zone: RESIDENTIAL Minimum Acreage: 0.92 Minimum Frontage: 150

Site: NA Driveway: NONE Road: PAVED

Land Type	Units	Base Rate	NC	Adj	Site	Road	DWY	Topography	Cond	Ad Valorem	SPI	R	Tax Value	Notes
EXEMPT-MUNIC	0.920 ac	130,000	E	100	100	100	100		50	65,000	0	N	65,000	WET
EXEMPT-MUNIC	0.350 ac	x 5,000	X	100					50	900	0	N	900	WET
	1.270 ac									65,900			65,900	

Parcel 3

Map: 00003C

Lot: 000041

Sub: 000000

Card: 1 of 1

10 GREENS POND RD

MERRIMACK

Printed: 01/21/2015

<div>PICTURE</div>	<div>OWNER</div> <div>MERRIMACK TOWN OF</div> <div>6 BABOOSIC LAKE RD</div> <div>MERRIMACK, NH 03054</div>	<div>TAXABLE DISTRICTS</div> <table><tr><td>District</td><td>Percentage</td></tr><tr><td>Merrimack Village</td><td>% 100</td></tr></table>		District	Percentage	Merrimack Village	% 100	<div>BUILDING DETAILS</div>		
		District	Percentage							
		Merrimack Village	% 100							
		<div>PERMITS</div> <table><tr><td>Date</td><td>Permit ID</td><td>Permit Type</td><td>Notes</td></tr><tr><td colspan="4"></td></tr></table>		Date	Permit ID	Permit Type	Notes			
Date	Permit ID	Permit Type	Notes							
		<div>Base Type:</div>								
<div>BUILDING SUB AREA DETAILS</div>										
<div>2011 BASE YEAR BUILDING VALUATION</div>										
<div>Year Built:</div> <div>Condition For Age:</div> <div>Physical:</div> <div>Functional:</div> <div>Economic:</div> <div>Temporary:</div> <div>%</div> <div>%</div>										

Tennessee Gas Pipeline Company, L.L.C. - Northeast Energy Direct

SURVEY PERMISSION

State of New Hampshire
County of Hillsborough
Town of Merrimack

LL# New Hampshire WD 423.00
Total # of tracts 1
Map/Block/Lot 3C-40-2

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Date: _____

Grantor(s): _____

Town Of Merrimack
6 Baboosic Lake Road
Merrimack, NH 03054
Phone# (603) 424-2331

Patty Quinn
Percheron Field Services, LLC
Land Agent for Tennessee Gas Pipeline
Company, LLC

Tenant: _____
Name _____
Address _____
Town, City Zip _____
Phone # _____

Interest: _____
(i.e. agricultural lease, house rental, etc.)

Existing Structures:

<input type="checkbox"/> Water Well	<input type="checkbox"/> Septic System/Leach Field	<input type="checkbox"/> Foundation	<input type="checkbox"/> Utility Poles
<input type="checkbox"/> Swimming Pool	<input type="checkbox"/> Drainage Tiles	<input type="checkbox"/> Property Pins	<input type="checkbox"/> Ponds
<input type="checkbox"/> Buildings	<input type="checkbox"/> Buried Lines/Pipes	<input type="checkbox"/> Other:	

Ingress/Egress _____

Notes/Comments _____

OWNER INFORMATION

MERRIMACK TOWN OF

Date 04/01/1900 Book N/A Page N/A Type U V 99 Price Grantor N/A

6 BABOOSIC LAKE RD

MERRIMACK, NH 03054

SALES HISTORY

LISTING HISTORY

08/28/03 MRUL

BUFFER

NOTES

EXTRA FEATURES VALUATION

Feature Type Units Length x Width Size Adj Rate Cond Market Value Notes

MUNICIPAL SOFTWARE BY AVTAR

MERRIMACK ASSESSING OFFICE

PARCEL TOTAL TAXABLE VALUE

Year	Building	Features	Land
2013	\$ 0	\$ 0	\$ 14,000
		Parcel Total:	\$ 14,000
2014	\$ 0	\$ 0	\$ 14,000
		Parcel Total:	\$ 14,000
2015	\$ 0	\$ 0	\$ 14,000
		Parcel Total:	\$ 14,000

LAND VALUATION

Zone: RESIDENTIAL Minimum Acreage: 0.92 Minimum Frontage: 150

Land Type Units Base Rate NC Adj Site Road DWay Topography Cond Ad Valorem SPI R Tax Value Notes Site: NA Driveway: N/A Road: PAVED

EXEMPT-MUNIC 0.920 ac 130,000 E 100 100 100 100 10 13,000 0 N 13,000 NBD/SHAPE

EXEMPT-MUNIC 1.950 ac x 5,000 X 100 10 1,000 0 N 1,000 NBD/SHAPE

2.870 ac

14,000

14,000

Parcel 4

Map: 00003C

Lot: 000040

Sub: 000002

Card: 1 of 1

CAMP SARGENT RD

MERRIMACK

Printed: 01/21/2015

PICTURE	OWNER MERRIMACK TOWN OF 6 BABOOSIC LAKE RD MERRIMACK, NH 03054	TAXABLE DISTRICTS		BUILDING DETAILS
		District	Percentage	
		Merrimack Village	% 100	
PERMITS		Notes	Base Type:	
Date	Permit ID Permit Type			
<div></div>				BUILDING SUB AREA DETAILS
<div></div>				
<div></div>				
2011 BASE YEAR BUILDING VALUATION				
Year Built:				%
Condition For Age:				
Physical:				
Functional:				
Economic:				
Temporary:				%



AECOM
10 Orms Street, Suite 405
Providence, RI 02904

401.274.5685 tel
401.521.2730 fax

January 26, 2015

Merrimack Community Development
Timothy Thompson - Director
6 Baboosic Lake Road
Merrimack, NH 03054

Subject: Information Request

**Tennessee Gas Pipeline Company, L.L.C.
Northeast Energy Direct Project, FERC Docket No. PF14-22
Cheshire, Hillsborough, and Rockingham Counties, New Hampshire**

Dear Mr. Thompson,

In response to the increased demand for interstate natural gas transmission in the Northeast United States (U.S.), Tennessee Gas Pipeline Company, L.L.C. (Tennessee) is proposing the construction and operation of the Northeast Energy Direct Project (Project or NED) which will modify its existing pipeline system in Pennsylvania, New York, Massachusetts, Connecticut, and New Hampshire. The NED Project will provide up to 2.2 billion cubic feet per day (Bcf/d) of new firm natural gas transportation capacity to meet the growing energy needs in the Northeast U.S., particularly in New England. Tennessee will file an application seeking the issuance of a certificate of public convenience and necessity from the Federal Energy Regulatory Commission (Commission or FERC) for the Project. Tennessee submitted a request to enter the FERC's National Environmental Policy Act (NEPA) Pre-Filing Process on September 15, 2014 and FERC approved this request under FERC Docket No. PF14-22.

The Project facilities in New Hampshire include the following:

- Approximately 71 miles of new (greenfield) pipeline in New Hampshire (extending from the Massachusetts/New Hampshire border, through New Hampshire to Dracut, Massachusetts);
- Approximately 7 miles of pipeline laterals;
- Construction of one new compressor station;
- Construction of one new meter station; and
- Construction of minor appurtenant facilities, including mainline valves, cathodic protection, and pig launcher/receivers throughout the Project area.

The table below summarizes the proposed pipeline mileage within each county crossed by the Project within New Hampshire.

RECEIVED
JAN 29 2015
COMMUNITY DEVELOPMENT DEPT.
TOWN OF MERRIMACK

PROPOSED NED PROJECT PIPELINE FACILITIES			
Facility Name	Facility Type	County	Length (miles)
New Hampshire			
Wright to Dracut Pipeline Segment (New Hampshire Portion)	Pipeline	Cheshire	28.96
		Hillsborough	36.86
		Rockingham	4.77
Fitchburg Lateral Extension (New Hampshire Portion)	Pipeline	Hillsborough	5.08
Haverhill Lateral (New Hampshire Portion)	Pipeline	Rockingham	1.99
New Hampshire Total			77.66

An Environmental Report (ER) which is required as part of the FERC Section 7(C) application and review process is currently being prepared for the Project. As part of the FERC NEPA review, it is necessary to identify whether the proposed facilities will cross or be within 0.25-miles of the following sensitive environmental areas:

- U.S. Environmental Protection Agency (USEPA), State, or Municipal designated aquifers
- State or municipal designated aquifer protection areas
- Surface waters that provide public drinking water supplies
- State or municipal designated surface water protection areas
- Any known existing or proposed public or private drinking water wells, reservoirs, or springs in or within 300 feet of the proposed alignment
- Open space/natural areas
- Locally significant roads, scenic areas, or rivers
- Schools, parks, ballfields, trails

Or within 0.50-miles of the following areas:

- Planned residential subdivision developments
- Planned commercial or industrial developments

On behalf of Tennessee, AECOM respectfully requests that the Merrimack Community Development office review its records relative to any of the above-referenced areas and provide written comments pertaining to the identified resources. We have enclosed for your review a series

of U.S. Geological Survey (USGS) location maps depicting the proposed Project facilities to the extent that the locations have been identified. For mapping purposes, the Wright to Dracut Pipeline Segment has been divided into sections with each section beginning at Milepost 0. Please reference milepost and county name to indicate any known resource locations or environmental concerns. Exact locations for construction of the new compressor station and meter station have not been determined at this time, therefore, a subsequent consultation request will be issued once these locations are finalized if they fall outside of the requested 0.25 mile buffer. If you have any questions or comments regarding the Project, please do not hesitate to contact me at 630-839-5392 or via email at lori.ferry@aecom.com. Thank you for your consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Lori Ferry". The signature is written in a cursive, flowing style.

Lori Ferry
AECOM Project Manager

cc: Michael Letson, Tennessee Gas Pipeline Company, L.L.C
Attachment: USGS Location Maps

Section 106 Review

- Part of the National Historic Preservation Act of 1966
- If a federal agency is involved in permitting (as FERC is with this project), they must review the impact on historic resources:
 - Identify if any exist (buildings, archaeologic sites, farms, rail corridors, historic roads, burial grounds, Native American sites, etc.)
 - Identify the impact of the proposed project on the historic resource
 - Negotiate to avoid, minimize or mitigate the impact
- For towns interested in involvement in the review, it is recommended that a letter be sent to FERC (copy Elizabeth Muzzey, Director - NH Division of Historic Resources) requesting town be granted "Consulting Party Status"
 - Sample language: "The Selectboard of _____ is concerned that potential historic resources have not been identified along the proposed route of the Northeast Energy Direct ("NED") Project pipeline in our town. Therefore, we request to be granted "Consulting Party Status" for matters related to the project's mandated Section 106 Review."
 - With Consulting Party Status, a town will be notified of relevant meetings; additional time could be required, but only if the town decides to be involved

[About ACHP](#)[ACHP News](#)[National Historic
Preservation
Program](#)[Working with
Section 106](#)[Federal, State, &
Tribal Programs](#)[Training &
Education](#)[Publications](#)[Search](#)

Section 106 Regulations Summary

Introduction

[Initiate Section 106 process](#)[Identify historic properties](#)[Assess adverse effects](#)[Resolve adverse effects](#)[Implementation](#)[Failure to resolve adverse effects](#)[Tribes, Native Hawaiians, and the public](#)

Introduction

Section 106 of the [National Historic Preservation Act of 1966 \(NHPA\)](#) requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the [Advisory Council on Historic Preservation](#) a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP. Revised regulations, "[Protection of Historic Properties](#)" (36 CFR Part 800), became effective August 5, 2004, and are summarized below.

Initiate Section 106 process

The responsible Federal agency first determines whether it has an undertaking that is a type of activity that could affect historic properties. Historic properties are properties that are included in the [National Register of Historic Places](#) or that meet the [criteria for the National Register](#). If so, it must identify the appropriate [State Historic Preservation Officer/Tribal Historic Preservation Officer *](#) (SHPO/THPO*) to consult with during the process. It should also plan to involve the public, and identify other potential consulting parties. If it determines that it has no undertaking, or that its undertaking is a type of activity that has no potential to affect historic properties, the agency has no further Section 106 obligations.

Identify historic properties

If the agency's undertaking could affect historic properties, the agency determines the scope of appropriate identification efforts and then proceeds to identify historic properties in the area of potential effects. The agency reviews background

information, consults with the SHPO/THPO* and others, seeks information from knowledgeable parties, and conducts additional studies as necessary. Districts, sites, buildings, structures, and objects listed in the National Register are considered; unlisted properties are evaluated against the National Park Service's published [criteria](#), in consultation with the SHPO/THPO* and any Indian tribe or Native Hawaiian organization that may attach religious or cultural importance to them.

If questions arise about the eligibility of a given property, the agency may seek a formal determination of eligibility from the [National Park Service](#). Section 106 review gives equal consideration to properties that have already been included in the National Register as well as those that have not been so included, but that meet National Register criteria.

If the agency finds that no historic properties are present or affected, it provides documentation to the SHPO/THPO* and, barring any objection in 30 days, proceeds with its undertaking.

If the agency finds that historic properties are present, it proceeds to assess possible adverse effects.

Assess adverse effects

The agency, in consultation with the SHPO/THPO*, makes an assessment of adverse effects on the identified historic properties based on criteria found in ACHP's regulations.

If they agree that there will be **no adverse effect**, the agency proceeds with the undertaking and any agreed-upon conditions.

If a) they find that there is an **adverse effect**, or if the parties cannot agree and ACHP determines within 15 days that there is an adverse effect, the agency begins consultation to seek ways to avoid, minimize, or mitigate the adverse effects.

Resolve adverse effects

The agency consults to resolve adverse effects with the SHPO/THPO* and others, who may include Indian tribes and Native Hawaiian organizations, local governments, permit or license applicants, and members of the public. ACHP may participate in consultation when there are substantial impacts to important historic properties, when a case presents important questions of policy or interpretation, when there is a potential for procedural problems, or when there are issues of concern to Indian tribes or Native Hawaiian organizations.

Consultation usually results in a Memorandum of Agreement (MOA), which outlines agreed-upon measures that the agency will take to avoid, minimize, or mitigate the adverse effects. In some cases, the consulting parties may agree that no such measures are possible, but that the adverse effects must be accepted in the public interest.

Implementation

If an MOA is executed, the agency proceeds with its undertaking under the terms of the MOA.

Failure to resolve adverse effects

If consultation proves unproductive, the agency or the SHPO/THPO*, or ACHP itself, may terminate consultation. If a SHPO terminates consultation, the agency and ACHP may conclude an MOA without SHPO involvement. However, if a THPO* terminates consultation and the undertaking is on or affecting historic properties on tribal lands, ACHP must provide its comments. The agency must submit appropriate documentation to ACHP and request ACHP's written comments. The agency head must take into account ACHP's written comments in deciding how to proceed.

Indian Tribes and Native Hawaiian Organizations

The regulations also place major emphasis on consultation with Indian tribes and Native Hawaiian organizations, in keeping with the 1992 amendments to NHPA. Consultation with an Indian tribe must respect tribal sovereignty and the government-to-government relationship between the Federal Government and Indian tribes. Even if an Indian tribe has not been certified by NPS to have a [Tribal Historic Preservation Officer](#) who can act for the SHPO on its lands, it must be consulted about undertakings on or affecting its lands on the same basis and in addition to the SHPO.

The Public

Public involvement is a key ingredient in successful Section 106 consultation, and the views of the public should be solicited and considered throughout the process.

*** The regulations define the term "THPO" as those tribes that have assumed SHPO responsibilities on their tribal lands and have been certified pursuant to Section 101(d) (2) of the NHPA. Nevertheless, remember that tribes that have not been so certified have the same consultation and concurrence rights as THPOs when the undertaking takes place, or affects historic properties, on their tribal lands. The practical difference is that during such undertakings, THPOs would be consulted *in lieu of* the SHPO, while non-certified tribes would be consulted *in addition to* the SHPO.**

Updated April 18, 2013

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